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From:

Sent: Thursday, March 22, 2012 8:50:09 AM

To:

Cc:

Subject: RE: Partnership question

The relevant facts:

Notice of deficiency to wife (and husband) for the year on .

 husband filed for bankruptcy converting this partnership items for .

 a converted item notice of deficiency was issued to wife and husband..

You asked whether this second stat notice was prohibited by section 6212(c).

Answer: Section 6230(a)(2)(B) and (C) allows a second stat notice to be issued for converted items.

A related issue is whether wife had any converted partnership items by virtue of her husband's bankruptcy. If only her husband owned the TEFRA partnership interest and the couple did not live in a community property state giving wife a community property interest in the partnerships, then wife's partnership items converted to non-partnership items when her husband filed for bankruptcy (assuming that they filed a joint return). Calloway v. Commissioner, 231 F.3d 106 (2d Cir. 2000). If on the other hand, wife owned an interest in the partnerships directly (or under community property laws) then her partnership items did not convert and the converted item stat notice is invalid as to her. Dubin v. Commissioner, 99 T.C. 325 (1992). The above holdings have since been adopted by regulation with a slight modification. Under Treas. Reg. 301.6231(a)(12)-1(a)(2) and - 1(a)(3), the wife will not be treated as owning a separate interest if she is not listed on the Forms K-1 issued by the partnership.